

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-637

December 10, 2002

CENTRAL MAINE POWER COMPANY
Request for Approval of Affiliated Interest
Transaction with Energy East Corporation

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we approve an affiliated interest transaction between Central Maine Power Company (CMP or the Company) and its affiliate Energy East Corporation (EEC).

II. BACKGROUND

On October 21, 2002, CMP filed a request for approval of an affiliated interest transaction with EEC. The transaction involves the lease by EEC of fiber-optic strands within a CMP-owned fiber-optic cable located on Edison Drive in Augusta, Maine. The Company states that EEC is building a network among its subsidiaries and that it has contracted for fiber capacity with unaffiliated entities along its intended route as far as Western Avenue right up to Edison Drive in Augusta. CMP states that there are currently no unaffiliated entities with available fiber capacity along Edison Drive, which leaves CMP as EEC's only alternative. CMP has filed the Fiber Agreement with EEC, subject to a Protective Order issued by the Hearing Examiner on October 30, 2002, in support of its request.

III. DECISION

A public utility may not arrange for the furnishing of any service with an affiliated interest until the Commission finds that the arrangement is not adverse to the public interest. 35-A M.R.S.A. §707(3). The Commission has considered here whether the lease price of individual strands within a certain fiber-optic cable has been made on an arm's-length basis. We reviewed the proposed lease agreement between CMP and EEC and compared it to a similar agreement between CMP and an unaffiliated third-party telecommunications carrier in November 2001 and found the proposed price and terms to be comparable, with EEC's lease rate being slightly higher than that paid by the third-party. Furthermore, and this is typically not the case when evaluating "comparable" transactions, the route being used by the third party is the very same one (within the same cable in fact) being proposed by CMP for EEC. The price paid by the

third-party is therefore close to being a perfectly comparable “market rate” against which to evaluate the CMP/EEC agreement.¹

We therefore conclude that the CMP/EEC Fiber Agreement is an arm’s length transaction and is therefore not adverse to the public interest. Subject to receipt of the executed Fiber Agreement, we approve the Company’s request.

Accordingly, we

O R D E R

That the Fiber Agreement between Central Maine Power Company and Energy East Corporation described in CMP’s petition filed October 21 and in materials filed on November 25 and December 5, 2002, is approved.

Dated at Augusta, Maine, this 10th day of December, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

¹ CMP submitted confidential information pertaining to the Fiber Agreement on November 25 and December 5.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.